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Elena Ruth Sassower, Coordinator

BY FEDERAL EXPRESS: #116229706

January 29, 1999

Mr. Tony Mauro
USA TODAY
1000 Wilson Boulevard
Arlington, Virginia 22229

RE: Media-Unreported Impeachment Stories

Dear Mr. Mauro:

Enclosed are the substantiating materials for the stories summarized by CJA's two press releases: "House Judiciary Committee Ignores and Conceals Hundreds of Judicial Impeachment Complaints" and "Impeachment Complaint against Chief Justice Rehnquist".

Once you review them, I believe you will agree that they have the potential to blow apart the Senate impeachment trial of the President -- because they expose the *official* misconduct of the key players, the House Judiciary Committee and the Chief Justice, when required to uphold the "rule of law" and the integrity of the judicial process -- the *very* issues involved in the President's impeachment.

I might point out that on December 1st, Judge Gerald Tjoflat opened his testimony before the House Judiciary Committee by describing the "rule of law" as a "three-legged stool", which collapses if one of the legs is broken. He stated that the first leg is "an impartial judiciary", the second, "a bar of lawyers who are committed to adhering to the code of ethics at all times and in all matters" and the third, "the oath taken by witnesses". Chairman Hyde thereafter adopted that analogy, including in opening debate in the House of Representatives on the impeachment articles against the President. The transmittal before you demonstrates the destruction of ALL three legs, with the finishing blows delivered by our nation's Chief Justice.

ANNOTATED INVENTORY OF TRANSMITTAL

IN THE MANILA FOLDER:

(1) Pages 32-39 from the Report of the National Commission on Judicial Discipline and Removal about the House Judiciary Committee. Page 35 is particularly important in that it identifies that the House Judiciary Committee tabulates the number of judicial impeachment complaints it receives in its "Summary of Activities" and that these are "available upon request". CJA's July 10, 1995 letter, which formally made that request, is part of the documentary compendium [R-95] to CJA's June 1998 statement to the House Judiciary Committee [See Orange Folder]. The Committee's July 20, 1995 response to that request is also in that compendium [R-98], as is CJA's follow-up on the subject [R-99, R-103, 105].

(2) Pertinent pages from the House Judiciary Committee's "Summary of Activities" for the 101st and 102nd Congresses, reflecting that the Committee received 141 and 120 complaints, respectively, against federal judges. These pages were Exhibits "D" and "E" to CJA's aforesaid July 10, 1995 letter [R-95]. That letter also annexed, as Exhibit "C", the table of contents for the "Summary of Activities" for the 103rd Congress, reflecting NO section with statistical information on judicial impeachment complaints. This was pointed out by our July 10, 1995 letter [R-95]. Nonetheless, the House Judiciary Committee continued to omit such information from its "Summary of Activities" for the 104th Congress. Our enclosed June 1998 statement to the House Judiciary Committee noted such fact [at p.5, fn. 5; See Orange Folder].

(3) Pages 38-39 of the Draft Report of the National Commission on Judicial Discipline, containing the following pertinent statement, thereafter omitted from the Commission's Final Report:

"The Commission's analysis showed that well over 90 percent of the complaints do not raise genuine issues pertinent to judicial discipline or impeachment. A small number of complaints, however, raise troubling issues..." (at p. 39)

This statement, appearing in the draft report, was made the subject of express inquiry by CJA -- at the outset of our five-year correspondence with the House Judiciary Committee -- as we endeavored to ascertain what the Committee had done with this less than 10 percent that raised "genuine issues pertinent to judicial discipline or impeachment". See R-76. As reflected by our correspondence, the Committee did NOT respond to that inquiry. [See discussion in "*Without Merit: The Empty Promise of Judicial Discipline*"¹, at p. 94]

¹ The article is part of the Supreme Court submissions [See cert petition appendix: A-207; documentary compendium to CJA's June 1998 statement: R-5]. An additional copy is enclosed for your convenience.

(4) **Pertinent pages of the federal judiciary's 1996 and 1997 annual reports**, showing a 100% dismissal rate for judicial misconduct complaints filed with it, pursuant to 28 U.S.C. §372(c). As pointed out in CJA's June 1998 written statement to the House Judiciary Committee (at p. 3), not a single federal judge was disciplined, publicly or privately, and not a single investigative committee was appointed [*See Orange Folder*].

(5) **The Appearance of Justice, Chapter 9: "A Judge and His Cause"**, by John MacKenzie, with Justice Rehnquist's memorandum denying recusal in the 1972 case, *Laird v. Tatum*. John MacKenzie's scathing assessment of Justice Rehnquist's failure to recuse himself from that 1972 case is cited in our press release about our impeachment complaint against the Chief Justice and more fully noted at page 7 of the petition for rehearing [*See Green Folder*].

NOTE ON THE COLORED FOLDERS: The materials enclosed in these folders constitute the record before the Supreme Court in *Sassower v. Mangano, et al.*² -- the civil rights action under 42 U.S.C. §1983 from which the November 6, 1998 impeachment complaint against the Chief Justice emerges. BOTH the Republican and Democratic sides of the House Judiciary Committee have copies of these materials, as well as copies of the lower court record.

IN THE GREEN FOLDER:

CJA's November 6, 1998 impeachment complaint against Chief Justice Rehnquist, with its incorporated October 30, 1998 petition for rehearing in *Sassower v. Mangano, et al.*³ The certified mail/return receipts show that the impeachment complaint arrived at the House Judiciary Committee -- both the Republican and Democratic sides -- on November 10th and November 12th, respectively. This was in the day(s) following Professor Lawrence Tribe's November 9th appearance before the House Judiciary Committee wherein he stated that "letting partisan considerations affect one's decision... is *always* an impeachable abuse of power in a judge." Nine copies of the impeachment complaint were

² The defendants in the case are high-ranking New York State judges and the New York State Attorney General, sued for corruption. The allegations of the federal complaint are reflected by CJA's \$20,000 public interest ad, "*Where Do You Go When Judges Break the Law?*" (*The New York Times*, 10/26/94, Op-Ed page; and *New York Law Journal*, 11/1/94, p. 9) -- which is part of the Supreme Court submissions [cert petition appendix [A-269]; Compendium to CJA's June 1998 statement [R-54]; Exhibit "I-2" to July 27, 1998 criminal complaint to the U.S. Justice Department's Public Integrity Section]. For your convenience, a free-standing copy is enclosed

³ The appendix to the rehearing petition reprints the disqualification/disclosure application presented to the justices [RA-6] and the judicial misconduct complaint against them [RA-52] -- each of which they ignored.

also sent to the Supreme Court, for distribution to the Justices, as reflected by our November 6, 1998 letter to Francis Lorson, Supreme Court Chief Deputy Clerk, to which the certified mail/return receipts are attached. Mr. Lorson confirmed the distribution of the impeachment complaints to the Justices, who, thereafter, denied the *Sassower v. Mangano* rehearing petition. The November 30, 1998 letter of notification is enclosed.

IN THE BLUE FOLDER:

Cert petition and supplemental brief in *Sassower v. Mangano, et al.* The cert petition's FIRST "Question Presented" is the supervisory and ethical duty of the Supreme Court and its justices. This is discussed at pp. 21-23, "*Reasons for Granting the Writ*" and pp. 23-26, Point I: "*This Court's Power of Supervision is Mandated*" and "*This Court has a Duty to Make Disciplinary and Criminal Referrals*". Such pages detail that, absent Supreme Court review, there is NO remedy, within the Judicial Branch, for the corrupt conduct of the lower federal judiciary, demonstrated by the cert petition. This is because the lower federal judges not only corrupted the judicial/appellate processes, but the judicial disciplinary process under 28 U.S.C. §372(c)⁴. The supplemental brief (pp. 1-3, 7-10) further emphasizes the exigency of Supreme Court review -- demonstrating the breakdown of all checks on judicial misconduct, in the Legislative and Executive Branches, such that:

"the constitutional protection restricting federal judges' tenure in office to 'good behavior' does not exist because all avenues by which their official misconduct and abuse of office might be determined and impeachment initiated (U.S. Constitution, Article II, §4 and Article III, §1 [SA-1]) are corrupted by political and personal self-interest. The consequence: federal judges who pervert, with impunity, the constitutional pledge to 'establish Justice', (Constitution, Preamble [SA-1]) and who use their judicial office for ulterior purposes." [supplemental brief, at p. 2]

In substantiation of the breakdown of checks on judicial misconduct in the Legislative and Executive Branches, the following were "lodged" with the Clerk's office:

⁴ The §372(c) misconduct complaints against the district judge and appellate panel judges are printed in the appendix of the cert petition: the §372(c) complaints are at A- 242; A-251; the dismissal order of the Chief Judge: A-28; the petition for review to the Circuit Judicial Council: A-272; the affirmance order of the Circuit Judicial Council: A-31. *NOTE:* The federal judiciary's *own* statistics as to its 100% dismissal rate for §372(c) complaints, set forth in its 1996 and 1997 annual reports, are referred to in CJA's June 1998 statement to the House Judiciary Committee, printed in the appendix to the supplemental brief at SA-19.

IN THE ORANGE FOLDER:

CJA's statement to the House Judiciary Committee for inclusion in the record of its June 11, 1998 "oversight hearing of the administration and operation of the federal judiciary"⁵. The supporting documentary compendium to the statement contains CJA's FIVE-YEAR correspondence with the House Judiciary Committee. This correspondence [R-35, R-74, R-75*⁶, R-79, R-80*, R-84*, R-87*, R-90, R-92, R-95, R-98, R-99, R-103, R-105, R-108, R-110, R-1, R-15, R-40, R-66] commenced with our filing, in June 1993, of our first judicial impeachment complaint [R-35] and extends through to our filing of our second judicial impeachment complaint in March 1998 -- this against the district and circuit judges in *Sassower v. Mangano* [R-15, at R-25]. The correspondence chronicles our "voyage of discovery" of the true facts about the House Judiciary Committee, concealed and falsified by the 1993 Report of the National Commission on Judicial Discipline and Removal⁷ -- a commission created by (a panicked) Congress in response to the succession of three judicial impeachments in the 1980's.

IN THE PURPLE FOLDER:

CJA's July 27, 1998 criminal complaint to the U.S. Justice Department, Public Integrity Section, Criminal Division.⁸ The last paragraph of that complaint notes that notwithstanding that the Attorney General is required to annually "report to Congress on the activities and operations of the Public Integrity Section" [28 U.S.C. §529], the most recent annual report is for 1995. In the six months

⁵ The statement is also printed in the appendix to the supplemental brief at SA-17.

⁶ Correspondence demarked with an * contains the quoted statement of House Judiciary Committee counsel Ed O'Connell, "there has never been an investigation of an individual complaint in the history of the House Judiciary Committee". For the response of Tom Mooney, now House Judiciary Committee General Counsel and Mr. Hyde's Chief of Staff, as to the fact that the House Judiciary Committee does not undertake impeachment investigations and that it does not have the resources for such investigations, see CJA's June 30, 1995 letter to him [R-92; See, also "*Without Merit: The Empty Promise of Judicial Discipline*", p. 96]. Mr. Mooney's picture appeared in the January 8th New York Times, in the foreground next to Mr. Hyde, leading the House Managers into the Senate to commence the proceedings on President Clinton's impeachment.

⁷ CJA's article, "*Without Merit: The Empty Promise of Judicial Discipline*" constitutes a critique of the National Commission's Report, exposing it as methodologically-flawed and dishonest. The enclosed Supreme Court submissions documentarily bear out that critique -- in its entirety. See Supplemental Brief, pp. 1-2

⁸ The July 27, 1998 complaint to the Justice Department is also reprinted in the appendix to the supplemental brief: SA-47.

that have elapsed since we filed that criminal complaint, we have received NO response whatever from the Justice Department.

* * *

Your objective evaluation of the foregoing materials will convince you of the profound seriousness of CJA's November 6, 1998 impeachment complaint against Chief Justice Rehnquist and that it meets the standards for impeachment "under the most stringent definition of impeachable offenses".

As highlighted by our impeachment complaint (at p. 4), it was the National Commission's assumption that:

"any publicly-made (non-frivolous) allegations of serious misconduct...against a Supreme Court Justice would receive intense scrutiny in the press ... [See, also, Exhibit "B" to November 6, 1998 complaint, at p. 122]

Your response, as the Supreme Court reporter for USA TODAY, will test that assumption.

Thank you for your interest. As discussed, in the event you do not choose to pursue the stories the enclosed materials document, please be good enough to return them to us so that we may pass them on to other journalists. Needless to say, the bound Supreme Court volumes are, in particular, extremely expensive for our unfunded, non-profit citizens' organization to provide.

Yours for a quality judiciary,

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures: As indicated

P.S. As mentioned, enclosed is the pertinent correspondence of Ann Ryder, a CJA member from North Carolina, from which you can readily discern that the House Judiciary Committee does not even acknowledge the judicial impeachment complaints it receives.